

APPEAL NO. 020729
FILED APRIL 30, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on March 4, 2002. The hearing officer determined that the appellant's (claimant) compensable left elbow injury does not extend to or include a neck injury at C4-5 and C5-6.

The claimant appealed, asserting that she had no prior neck problems until she fell, and that her fall was so severe that she sustained a left elbow fracture. The respondent (self-insured) responds, urging affirmance.

DECISION

Affirmed.

The claimant was employed in the food service department in one of the employer's facilities. The parties stipulated that the claimant sustained a compensable left elbow injury on _____. It is undisputed that the claimant sustained a left elbow contusion and fracture when she slipped and fell on a concrete floor. All of the initial reports focus on the left elbow injury and the first mention of the neck is a handwritten notation of "neck strain" by the treating doctor on July 18, 2001. A cervical MRI of August 21, 2001, indicates "broad-based posterior disk protrusion" at C4-5 and C5-6. Medical evidence as to whether the protrusions were caused by the compensable fall or were degenerative in nature, as the self-insured contends, is in conflict.

With the medical evidence in conflict, the hearing officer, who is the sole judge of the weight and credibility of the evidence, including the medical evidence (Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ)), determined what facts had been established from the conflicting evidence. St. Paul Fire & Marine Insurance Company v. Escalera, 385 S.W.2d 477 (Tex. Civ. App.-San Antonio 1964, writ ref'd n.r.e.). We conclude that the hearing officer's determination is not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

Accordingly, the hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **STATE OFFICE OF RISK MANAGEMENT (a self-insured governmental entity)** and the name and address of its registered agent for service of process is

For service in person the address is:

**RON JOSSELET, EXECUTIVE DIRECTOR
STATE OFFICE OF RISK MANAGEMENT
300 W. 15TH STREET
WILLIAM P. CLEMENTS, JR. STATE OFFICE BUILDING, 6TH FLOOR
AUSTIN, TEXAS 78701.**

For service by mail the address is:

**RON JOSSELET, EXECUTIVE DIRECTOR
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AUSTIN, TEXAS 78711-3777.**

Thomas A. Knapp
Appeals Judge

CONCUR:

Michael B. McShane
Appeals Judge

Robert W. Potts
Appeals Judge